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8
9 **BEFORE THE ARIZONA STATE BOARD OF PHARMACY**

10 In the Matter of

11 **CHRISTEL BIRD,**

12 Holder of License No. 11521
As a Pharmacist
13 In the State of Arizona

Board Case No. 09-0028-PHR

**CONSENT AGREEMENT
FOR CIVIL PENALTY AND
CONTINUING EDUCATION**

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15 **RECITALS**

16 In the interest of a prompt and judicious settlement of this case, consistent with the
17 public interest, statutory requirements and the responsibilities of the Arizona State Board
18 of Pharmacy ("Board") under A.R.S. § 32-1901, *et. seq.*, Christel Bird ("Respondent"),
19 holder of Pharmacist License Number 11521 in the State of Arizona, and the Board enter
20 into the following Recitals, Findings of Fact, Conclusions of Law and Order ("Consent
21 Agreement") as a final disposition of this matter.

22 1. Respondent has read and understands this Consent Agreement and has had
23 the opportunity to discuss this Consent Agreement with an attorney, or has waived the
24 opportunity to discuss this Consent Agreement with an attorney.
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1 2. Respondent understands that she has a right to a public administrative
2 hearing concerning the above-captioned matter, at which hearing she could present
3 evidence and cross examine witnesses. By entering into this Consent Agreement,
4 Respondent knowingly and voluntarily relinquishes all right to such an administrative
5 hearing, as well as rights of rehearing, review, reconsideration, appeal, judicial review or
6 any other administrative and/or judicial action, concerning the matters set forth herein.

7 3. Respondent affirmatively agrees that this Consent Agreement shall be
8 irrevocable.

9 4. Respondent understands that this Consent Agreement or any part of the
10 agreement may be considered in any future disciplinary action by the Board against her.

11 5. Respondent understands this Consent Agreement deals with Board
12 Complaint No. 3594 involving allegations of unprofessional conduct against Respondent.
13 The investigation into these allegations against Respondent shall be concluded upon the
14 Board's adoption of this Consent Agreement.

15 6. Respondent understands that this Consent Agreement does not constitute a
16 dismissal or resolution of any other matters currently pending before the Board, if any,
17 and does not constitute any waiver, express or implied, of the Board's statutory authority
18 or jurisdiction regarding any other pending or future investigation, action or proceeding.

19 7. Respondent also understands that acceptance of this Consent Agreement
20 does not preclude any other agency, subdivision, or officer of this State from instituting
21 any other civil or criminal proceedings with respect to the conduct that is the subject of
22 this Consent Agreement.

23 8. Respondent acknowledges and agrees that, upon signing this Consent
24 Agreement and returning this document to the Board's Executive Director, she may not
25 revoke her acceptance of the Consent Agreement or make any modifications to the
26

1 document regardless of whether the Consent Agreement has been signed by the
2 Executive Director. Any modification to this original document is ineffective and void
3 unless mutually agreed by the parties in writing.

4 9. Respondent understands that the Consent Agreement shall not become
5 effective unless and until adopted by the Board and signed by its Executive Director.

6 10. If a court of competent jurisdiction rules that any part of this Consent
7 Agreement is void or otherwise unenforceable, the remainder of the Consent Agreement
8 shall remain in full force and effect.

9 11. Respondent understands and agrees that if the Board does not adopt this
10 Consent Agreement, she will not assert as a defense that the Board's consideration of this
11 Consent Agreement constitutes bias, prejudice, prejudgment or other similar defenses.

12 12. Respondent understands that this Consent Agreement is a public record that
13 may be publicly disseminated as a formal action of the Board and may be reported as
14 required by law to the National Practitioner Data Bank and the Healthcare Integrity and
15 Protection Data Bank.

16 13. Respondent understands that any violation of this Consent Agreement
17 constitutes unprofessional conduct and may result in disciplinary action. A.R.S. §§ 32-
18 1901.01(B)(20), -1927(A)(1).

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1 ACCEPTED AND AGREED BY RESPONDENT

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3 Christel Bird
Christel Bird

Dated: 3.12.09

4 Subscribed and sworn to before me in the County of Maricopa, State of Arizona
5 this 12 day of March, 2009, by Christel Bird.



Gerrick S. Garrett
NOTARY PUBLIC

My Commission expires: 9/6/2009

10 **FINDINGS OF FACT**

11 1. The Board is the duly constituted authority for licensing and regulating the
12 practice of pharmacy in the State of Arizona.

13 2. Respondent is the holder of license number 11521 to practice as a
14 pharmacist in the State of Arizona.

15 3. During all relevant times to these findings, Respondent worked as a
16 pharmacist at Walgreens Pharmacy #6666 (the "Pharmacy") in Prescott Valley, Arizona.

17 4. In July 2006 a patient had a prescription for MS Contin ER 15 mg filled at
18 the Pharmacy. The prescription directed the patient to take 1 tablet by mouth once daily.
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20 5. The prescription was misfiled with morphine sulfate ER 60 mg.

21 6. When the patient complained to her doctor that the pain medication was not
22 working, the doctor instructed that the patient take 2 tablets by mouth twice daily. The
23 patient died as a result of respiratory depression.
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1 7. Respondent performed the product verification (compared the prescription
2 with the medication being dispensed).

3 **CONCLUSIONS OF LAW**

4 1. The Board possesses jurisdiction over the subject matter and over
5 Respondent pursuant to A.R.S. § 32-1901 *et seq.*

6 2. The Board may discipline a pharmacist who has engaged in unprofessional
7 conduct. A.R.S. § 32-1927(A)(1).

8 3. The conduct and circumstances described above constitutes unprofessional
9 conduct pursuant to A.R.S. § 32-1901.01(B)(2) (Violating any federal or state law, rule or
10 regulation relating to the manufacture or distribution of drugs and devices or the practice
11 of pharmacy).

12 4. The conduct and circumstances described above constitute unprofessional
13 conduct pursuant to A.R.S. § 32-1901.01(B)(10) (Violating a federal or state law or
14 administrative rule relating to marijuana, prescription-only drugs, narcotics, dangerous
15 drugs, controlled substances or precursor chemicals when determined by the board or by
16 conviction in a federal or state court).

17 5. The conduct described above violated Arizona Administrative Code R4-23-
18 402(A)(10)(b) (A pharmacist shall ensure that the data input is for the correct drug by
19 verifying the drug name, strength, and dosage form).

20 6. The conduct described above violated Arizona Administrative Code R4-23-
21 402(A)(11) (A pharmacist shall make a final accuracy check on the completed
22 prescription medication).

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ORDER

Based upon the above Findings of Fact and Conclusions of Law, IT IS HEREBY ORDERED THAT within **90 days** of the effective date of this Order Respondent shall:

1. Pay a civil penalty of \$1,000.00; and
2. Successfully complete and provide proof of successful completion to the Board of eight (8) contact hours (0.8 C.E.U.) of American Council on Pharmaceutical Education (ACPE) courses. The courses shall be pre-approved by Board staff, shall be limited to topics dealing with error prevention, and shall be in addition to the requirements of A.R.S. § 32-1936 and A.A.C. R4-23-204.

DATED this 7th day of may, 2009.

ARIZONA STATE BOARD OF PHARMACY

(Seal)

By: 
HAL WAND, R.Ph.
Executive Director

1 ORIGINAL OF THE FOREGOING FILED
this 7th day of May, 2009, with:

2 Arizona State Board of Pharmacy
3 1700 West Washington, Suite 250
4 Phoenix, Arizona 85007

5 EXECUTED COPY OF THE FOREGOING MAILED
BY TH CERTIFIED MAIL
this 7th day of May, 2009, to:

6 Christel Bird
7 12206 W. Planada Lane
8 Sun City, Arizona 85373
Respondent

9 EXECUTED COPY OF THE FOREGOING MAILED
this 7th day of May, 2009, to:

10 Elizabeth A. Campbell
11 Assistant Attorney General
12 1275 W. Washington Street, CIV/LES
13 Phoenix, Arizona 85007
Attorneys for the State of Arizona

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